

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14178, of Amoco Oil Co., pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 5102.41 to construct a new gasoline service station and food store in a C-2-A District at premises 3728 Georgia Avenue, N.W., (Square 2900, Lot 42).

HEARING DATE: September 26, 1984

DECISION DATES: October 3 and November 7, 1984

FINDINGS OF FACT:

1. The subject site is located on the west side of Georgia Avenue between Rock Creek Church Road on the south and Quincy Street on the north. The site is in a C-2-A District and is known as premises 3728 Georgia Avenue, N.W.

2. The subject lot is approximately rectangular in shape. Its southern portion is ten feet wider than the northern section. The lot area is approximately 13,602.4 square feet.

3. The subject site is improved with a gasoline service station that includes two pump islands over which there is a canopy. At the rear of the site there is a building with an area of approximately 1,800 square feet which is used for storage and in which the cashier is located. Convenience food items and cigarettes are also sold from the building. Gasoline is dispensed on a self-service basis and no repair services are offered.

4. There is access to and from the subject site through Georgia Avenue on the east and through a public alley on the west.

5. The C-2-A District in which the subject property is located fronts both sides of Georgia Avenue. The area is characterized by commercial activities, such as fast food restaurants, liquor stores, banks, convenience stores and gas stations. There is a District of Columbia fire station in Square 2900.

6. Square 2900 is split zoned C-2-A and R-4. The gasoline station is located within its entirety in the C-2-A zone and the portion thereof devoted to gasoline station use is separated by a public alley from the residential uses in the R-4 portion of the square.

7. In order to provide for more efficient internal circulation and operation, the applicant proposes to demolish all of the existing improvements and construct four parallel pump islands and a new canopy, and install new underground storage tanks, all as shown on the plans submitted into the record by the applicant. The applicant also proposes to construct a 576 square foot building underneath the canopy in which the cashiers will be located and from which the applicant will continue to sell such items as convenience foods and cigarettes. The cashier will be located on the interior of the building, a design intended to provide greater customer and employee security than now exists. There will be space for cars to park on either side of the new building as well as at the rear where the building proposed for demolition now stands.

8. Access to the station will continue to be from two existing driveways, the northern most of which will be restricted and posted for entry only. The southern most driveway will be used only as an exit and will be so posted. The applicant will also install a sign at the exit cautioning drivers to watch for pedestrians.

9. The gasoline station presently contains twelve self-service gasoline pumps on two islands. Under the applicant's proposal, there will be four pump islands containing a total of sixteen self-service gasoline pumps.

10. The implementation of the applicant's proposal requires a special exception under Paragraph 5102.41 of the Zoning Regulations to permit the construction of a new gasoline service station in a C-2-A District.

11. The Board of Zoning Adjustment is authorized to grant special exceptions pursuant to Sub-section 8207.2 of the Zoning Regulations where in the judgement of the Board such special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and maps and will not tend to affect adversely the use of neighboring property.

12. Paragraph 5102.41 provides that a gasoline service station may be established or enlarged in a C-2-A District if it includes no body and fender work, provided that the use meets the conditions of Section 8207, Sub-section 5102.5, Article 74, and Paragraph 5101.41.

13. Sub-section 5102.5 requires that the application shall be submitted to the Office of Planning for coordination, review, report and impact assessment along with reports in writing of all relevant District departments and agencies.

14. Article 74 requires that a gasoline service station shall be subject to the following special provisions:

- A. No portion of the structure or premises to be so used shall be located within twenty-five feet of a Residence District unless separated therefrom by a street or alley.
- B. No such use shall have a vehicular entrance or exit connected with a street at a point closer than twenty-five feet to any Residence District existing at the time such use is established, unless separated therefrom by a street or alley.
- C. No driveway of any entrance or exit to such use shall be closer than twenty-five feet to a street intersection as measured from the intersection of the curb lines extended.
- D. All grease pits or hoists constructed or established as part of such use shall be within a building.

15. Paragraph 5101.41 requires that the application meet the following conditions:

- A. The station shall not be located within twenty-five feet of residence district unless separated therefrom by a street or alley.
- B. The operation of the use will not create dangerous or other objectionable traffic conditions.
- C. The Board may impose requirements pertaining to design, appearance, screening, lighting, or such other requirement as it shall deem necessary to protect adjacent or nearby property.

16. A public alley at the rear of the subject site separates the portion of the property devoted to gasoline station use from the abutting R-4 District.

17. No vehicular entrance or exit is connected with the street at points closer than twenty-five feet to any residential district. Existing curb cuts will be utilized.

18. Traffic will be drawn from vehicles already in the stream of traffic. Presently the applicant experiences some stacking of cars waiting to enter the station during peak hours of operation. The new design and layout of the gasoline station will serve to eliminate this stacking by reorienting the flow of traffic entering and exiting the site. The entrance and exit to the station will be clearly marked. Pedestrians who might wish to enter the kiosk to

purchase items from the food shop will be protected from automobile traffic because the flow of traffic will be oriented away from pedestrians and because of a four foot sidewalk around the building.

19. Lighting will be confined to the canopy area and directed down to the general dispensing area as is presently the case. There will also be a security light attached to a pole in the area of the southwest corner of the site as shown on the plans. That security light will also be confined to the station site.

20. Although no landscaping was shown on the plans, the applicant has agreed to provide landscaping on the southwest portion of the site by eliminating one of the parking spaces. Because of the sharp grade difference between the subject site and the residences to the rear of the site, the station is adequately screened from those residences. The applicant will provide additional screening by placing wooden slats in the chain-link fence which is shown on the plans.

21. The applicant proposes to continue operating the station twenty-four hours a day.

22. There will be no grease pits or hoists.

23. A food store is permitted under the Zoning Regulations as a matter-of-right use in a C-2-A District.

24. The Office of Planning, by report dated September 19, 1984, recommended that the application be approved subject to the condition that all ingress should take place from the northern driveway which would be marked "entrance only" and all egress should take place from the southern driveway which would be marked "exit only." The Board finds that the applicant has agreed to comply with that condition. The Office of Planning was of the opinion that the application was in compliance with Paragraph 5201.41 of the Zoning Regulations and that the requested special exception will be in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect the use of neighboring property or affect adversely the traffic on surrounding streets. The Board concurs with the reasoning and the recommendations of the Office of Planning.

25. The D.C. Department of Public Works (DPW), by report dated September 6, 1984, reported that the proposed gas station is adequately located and protected from surrounding residential areas and has the require driveway locations. Traffic flow to the new gas station is expected to increase by approximately twenty-three percent due to the improvements in design capacity and the addition of the convenience food store which are proposed. This increase in

vehicles frequenting the station will be from vehicles already in the stream of traffic on the street system. The applicant estimates that the existing station attracts 700 vehicles per day. Therefore, the new station can be expected to attract approximately 875 vehicles. The DPW was of the opinion that the directional flow of traffic entering and exiting the site was of particular concern. The DPW recommended that the driveway openings be designed so that traffic on Georgia Avenue enters the north driveway opening and exits from the south driveway opening. No ingress should be allowed from the southern driveway. Pavement markings indicating "Entrance" and "Exit" should be painted at the appropriate driveway openings. The Board concurs with the reasoning and the recommendations of the Department of Public Works.

26. Advisory Neighborhood Commission 4C presented testimony at the public hearing and offered to submit a written report at the public hearing. The Board did not accept the written report into the record because it was untimely filed under the Supplemental Rules of Practice and Procedure before the BZA.

27. The Advisory Neighborhood Commissioner for the single member district in which the subject gasoline service station is located testified at the hearing. The representative testified that ANC 4C was opposed to the proposed food shop on the site and that the food shop and new gasoline station would adversely impact on the neighborhood because there would be increases in traffic and crime and because of poor lighting at the rear of the site and on Georgia Avenue. The witness further testified that eight out of ten businesses which were surveyed opposed the application.

28. The Single Member District representative submitted to the record a petition opposing the application. The opposition was based on the opinion that the granting of the proposed special exception would be in direct violation of Sub-section 5101.42 and 8207.11 of the Zoning Regulations. The petition bore forty-five signatures. The Board notes the statement of opposition in the petition is a statement of opinion that is not substantiated by any evidence nor by any detailed description of conditions at the site that allegedly fail to comply with the Zoning Regulations. The Board further notes that the opposition has cited Sub-section 8207.11 of the Zoning Regulations which pertains to variances whereas the subject application requests a special exception under Sub-section 8207.2.

29. Four letters of opposition were submitted to the record by the owners of property located near the subject site. The opposition was based on the opinion that the neighborhood is already saturated with convenience stores and that existing problems of crime and traffic congestion

would be exacerbated by the presence of a convenience store on the premises of the proposed gasoline service station.

30. The Board finds that it must give "great weight" to the issues and concerns of the ANC when such issues and concerns are reduced to writing. Since the written report of the ANC was untimely filed, it cannot receive "great weight" or be made a part of the record.

31. The testimony of the ANC representative as an individual and the concerns of others in opposition are a part of the record. As to the concern of the opposition that the presence of a food store at the proposed gasoline service station would have an adverse impact on the neighborhood, the Board finds that the proposed food store is a use permitted as a matter-of-right in a C-2-A District. The gasoline service station alone is subject to the special exception procedures. The Board notes that a combination food store and gasoline service station has operated at the subject site for the past several years. The customers of the food store have in the past been gasoline station customers who made additional purchases at the food store while on-site to purchase gasoline. The customers have not been shown by the opposition to generate any additional traffic or crime while on-site. As shown in the proposed site plan, the applicant's security measures will include a fence with six feet of height located at the rear and northern boundary of the property. The security design of the kiosk will be a deterrent to crime and provide greater security for customers of the station as well as for employees. By placing all vending machines in the kiosk, the applicant's proposal will also discourage loitering.

32. On the basis of the applicant's testimony and the Department of Public Works report, the Board finds that traffic conditions will improve as a result of the rearrangement of the pump islands and that the traffic will be reoriented in a manner such as to provide greater protection to pedestrians than now is the case. The Board further finds that the applicant has no control or responsibility for the lighting of areas outside its property and that the proposed station itself will be well lighted.

33. The Board at the public meeting of October 3, 1984, granted the application subject to the submission of revised landscape plans by the applicant. No order was to be issued prior to review and approval by the Board of a landscaping plan showing the landscaping to be provided in the southwest corner of the lot, by eliminating one parking space.

34. At the public meeting of November 7, 1984, the Board reviewed the revised landscaping plan which the applicant had submitted on October 17, 1984, and which is

marked as Exhibit No. 28A. The Board found that the landscaping plan was acceptable and voted to grant final approval of the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception to construct a new gasoline service station and food store in a C-2-A District. The granting of such a special exception requires a showing through substantial evidence that the proposed use satisfies the requirements of Paragraph 5102.41 and Sub-section 8207.2 of the D.C. Zoning Regulations.

The Board concludes that the applicant has met the burden of proof. The proposed use will satisfy the requirements of Paragraph 5102.31 including the provisions of Sub-section 5102.5, Article 74 and Paragraph 5101.41.

The Board further concludes that granting the proposed special exception will be in harmony with the general purpose and intent of the Zoning Regulations and maps and will not tend to affect adversely the use of neighboring property.

The Board concludes that it is not required by statute to give great weight in this case to the issues and concerns of the ANC since there was no written statement of those issues and concerns timely submitted into the record. Accordingly, it is hereby ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. The site shall be developed and landscaped as shown on Exhibit No. 28A.
2. The applicant shall install wooden slats in the chain-link fence as shown on the plans marked as Exhibit No. 12A of the record.
3. All ingress shall take place from the northern driveway which will be marked "entrance only" and all egress shall take place from the southern driveway which shall be marked "exit only." A sign shall be installed warning exiting motorists to watch for pedestrians.


VOTE to tentatively grant on October 3, 1984: 4-0 (Douglas J. Patton, William F. McIntosh, Maybelle T. Bennett and Carrie L. Thornhill to grant; Charles R. Norris not voting, not having heard the case).

VOTE to approve final plans on November 7, 1984: 4-0
(Douglas J. Patton, William F. McIntosh, Maybelle T.

Bennett and Carrie L. Thornhill to grant; Charles R. Norris not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 28 NOV 1984

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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